

III DEFINITIONS, GENERAL POLICIES, AND PLAN IMPLEMENTATION

3.1 Definitions

The following definitions apply to the policies in this ~~CLUPALUCP~~. Definitions for other commonly used aviation and planning terms are provided in Appendix A, Glossary.¹

~~**Aeronautics Act:** Except as indicated otherwise, the article of the California Public Utilities Code, Section 21670 et seq., as amended, pertaining to airport land use commissions.~~

Airport: When capitalized, unless the context clearly indicates otherwise, San Francisco International Airport.

Airport Influence Area (AIA): A two-part area, including Area A and Area B, established by this ~~CLUPALUCP~~ and within which the **C/CAG Board**, in its capacity as the **Airport Land Use Commission** for San Mateo County, exercises its jurisdiction with respect to airport land use compatibility planning.

Airport Land Use Commission: When capitalized, unless the context clearly indicates otherwise, the **C/CAG Board**, acting in its capacity as the **Airport Land Use Commission** for San Mateo County.

Airport Land Use Committee (ALUC): The committee duly appointed by the **C/CAG Board** to advise the Board on matters pertaining to airport land use compatibility in San Mateo County.

Airport Layout Plan: A scaled drawing, prepared in conformance with criteria promulgated by the **FAA**, depicting existing and proposed airport facilities, their location on an airport, and pertinent clearance and dimensional information.

Airspace Protection Area: The area beneath the **airspace protection surfaces** for the **Airport**.

Airspace Protection Surfaces: Imaginary surfaces in the airspace surrounding airports defined in accordance with criteria set forth in 14 Code of Federal Regulations Part 77, Subpart C, and **FAA** Order 8260.3B, U.S. Standard for

¹ Note that the bolded and italicized terms in the definitions are themselves defined in Section 3.1.

Division of Aeronautics: California Department of Transportation, *Division of Aeronautics*, or any successor agency that may assume the responsibilities of the *Division of Aeronautics*.

Existing Land Use: The actual use of land or the proposed use of the land evidenced by a **vested right** in the land as of the effective date of this CLUPALUCP.

FAA: The Federal Aviation Administration.

~~**Floor Area Ratio:** The gross square footage of a building (excluding parking garages) on a site divided by the square footage of the entire site.~~

Handbook: The most recent version of the *California Airport Land Use Planning Handbook* published by the California Department of Transportation, Division of Aeronautics.

Infill: Development of vacant or underutilized land within established communities or neighborhoods that are already served with streets, water, sewer, and other infrastructure.

Land Use Jurisdiction: The County of San Mateo and the municipalities with land use regulatory jurisdiction within the *Airport Influence Area*.

Land Use Policy Action: Any city or county general plan, specific plan, or zoning ordinance (including zoning maps and/or text) or any amendment to a city or county general plan, specific plan, or zoning ordinance (zoning maps and/or text). A **land use policy action** also refers to any school district, community college district, or special district facilities master plans or amendments to such master plans.

Local Agency: A **land use jurisdiction**, school district, community college district, or other special district.

Lot of Record: A parcel of land platted and recorded as of the effective date of this CLUPALUCP.

Lot Coverage: The ratio between the ground floor area of a building (or buildings) and the area of the lot or parcel on which the building (or buildings) are placed.

Nonconforming Use: An **existing land use** or building that does not comply with this CLUPALUCP.

Real Estate Disclosure: A written statement that notifies the prospective purchaser of real estate, prior to completion of the purchase, of the potential annoyances or inconveniences associated with airport operations. Typically, a **real estate disclosure** is provided at the real estate sales or leasing offices. **Real estate disclosure** is required by state law as a condition of the sale of most residential property if the property is located in the vicinity of an airport and is within its AIA (see Bus. & Prof. Code, §11010; Civ. Code, §§1102.6, 1103.4, 1353). State law does not require the **real estate disclosure** to be recorded in the chain of title for the affected property.

Vested Right: A right to the proposed use of land as demonstrated by any of the following:

- (a) A vesting tentative map that has been approved pursuant to California Government Code section 66498.1, and has not expired; or
- (b) A development agreement that has been executed pursuant to California Government Code section 65866, and remains in effect; or
- (c) A valid building permit that has been issued, substantial work that has been performed, and substantial liabilities that have been incurred in good faith reliance on the permit, pursuant to the California Supreme Court decision in *Avco Community Developers, Inc. v. South Coast Regional Com* (1976) 17 Cal.3d 785,791, and its progeny.

3.2 General Policies

The policies of this ~~CLUPALUCP~~ have four goals:

- To protect San Francisco International Airport (SFO) from further encroachment by incompatible land uses;
- To safeguard the general welfare of the inhabitants within the vicinity of the Airport and the public by protecting them from adverse effects of aircraft noise and by avoiding an increase in the number of people exposed to airport/aircraft related hazards;
- To ensure that no structures or land use characteristics adversely affect the navigable airspace in the vicinity of the Airport to provide for the safe passage of aircraft in flight; and
- To provide guidance to land use agencies on compatible land uses in the environs of SFO.

This ~~CLUPALUCP~~ contains general and specific policies that guide its overall implementation. The general policies that follow are to be used, in addition to the specific policies, standards, and criteria in Chapter 4, by the ~~C/CAG~~-ALUC, the Airport Land Use Commission (C/CAG Board), affected local agencies, and others, to implement the relevant provisions in this ~~CLUPALUCP~~.

The official policy language of the ~~CLUPALUCP~~ is labeled with policy numbers (e.g., GP-I, which means General Policy number I) and appears in shaded text boxes. Any non-shaded text provides explanatory information.

GP-I COMPLIANCE WITH STATE LAW

The C/CAG Board, acting in its capacity as the Airport Land Use Commission for San Mateo County, and the C/CAG Airport Land Use Committee (ALUC) shall comply with the provisions in the Public Utilities Code, Chapter 4, Article 3.5 (airport land use commission statutes) Section 21670 et seq., when administering this ~~CLUPALUCP~~ and the airport land use compatibility planning process in San Mateo County. The C/CAG Board and the C/CAG ALUC also shall implement Business and Professions Code, Section 11010 (b)(13), by establishing within this ~~CLUPALUCP~~ an Airport Influence Area (AIA) within which real estate disclosure of the presence of an airport shall be required.

GP-2 AMENDMENT OF THE CLUPALUCP

The CLUPALUCP shall be amended not more than once per calendar year, as provided in the airport land use commission statutes, to maintain a current, updated document for all affected agencies and interested parties.

GP-3 EFFECTIVE DATE

This CLUPALUCP shall become effective immediately upon a formal adoption action by the C/CAG Board, acting in its capacity as the Airport Land Use Commission for San Mateo County.

GP-4 APPLICABILITY OF POLICIES TO EXISTING LAND USES

Existing land uses shall be exempt from the policies and criteria of this CLUPALUCP, except as specifically provided in this Section.

GP-4.1 Modifications to Nonconforming Uses other than Schools and Hospitals

Modification of existing nonconforming land uses shall be permissible, provided that the modification does not increase the magnitude of the nonconformity. The magnitude of nonconformity shall be measured by:

1. For residential land uses, the number of dwelling units on the lot;
2. For nonresidential land uses, the size of the nonconforming use in terms of lot area and building floor area.

Where bedrooms or sleeping rooms are added to residential uses that are nonconforming with the noise compatibility policies of this ALUCP, those rooms must be sound-insulated to achieve an indoor noise level of CNEL 45 dB from exterior sources. In all cases, building modifications shall be subject to the airspace protection policies of this CLUPALUCP.

GP-4.2 Exceptions for Nonconforming Schools and Hospitals

Modifications to and enlargement of schools and hospitals that are nonconforming with the safety compatibility policies of this ALUCP shall be allowed, subject to the following condition:

- Where a modification results in an increase in building floor area, the number of exits required for the enlarged portion of the building under applicable building and safety codes, shall be increased by 50 percent. Where the 50-percent factor results in a fraction, the number of additional exits shall be rounded to the next highest whole number.

GP-4.23 Reconstruction of Nonconforming Use

~~Where an existing nonconforming building or use has been partially or totally destroyed by fire, storms, or other natural causes, it-~~ Nonconforming uses may be rebuilt to a density (for residential uses, dwelling

units per acre) or size (for nonresidential uses, building floor area) not exceeding that of the original construction. In all cases, however, reconstructed nonconforming uses shall comply with the noise compatibility and be subject to the airspace protection policies of this CLUPALUCP.

GP-4.43 Discontinuance of Nonconforming Use

If a nonconforming use has been discontinued for 12 24 months or longer, any subsequent use of the property shall comply with the provisions of this CLUPALUCP. Local government policies that specify shorter periods shall be deemed consistent with this CLUPALUCP policy.

GP-5 POLICIES FOR INFILL DEVELOPMENT

The Airport vicinity has been densely developed with urban uses for many years. Some relatively small parcels of undeveloped land remain that may be proposed for infill development. Other infill development cases may arise where existing development is proposed to be removed and the land redeveloped. Where infill development is proposed, the following policies shall apply.

GP-5.1 Application of Noise Compatibility Policies to Infill Development

When infill development is proposed that would involve incompatible land uses, based on the noise compatibility policies of this CLUPALUCP, the following policies shall apply.

1. The proposed project may be deemed consistent with this CLUPALUCP if the proposed project is compatible with the character of the surrounding area and is otherwise consistent with the applicable general plan or specific plan. The project sponsor shall be required to provide an analysis explaining how the proposed project is compatible with the character of the surrounding area. Relevant factors in judging compatibility with the character of the area include, but are not necessarily limited to:
 - a. Land use type.
 - b. Building height and mass.
 - c. Orientation of the building on the lot.
 - d. Architectural style.
 - e. Site plan.
 - f. Landscaping plan.
 - g. Setbacks from the street and lot lines.
2. Increases above the nominal development density set by the local zoning ordinance, through the use of density transfers, use permits, or other strategies, shall be considered inconsistent with the CLUPALUCP;
3. An acoustical study and noise attenuation features in the design of structures shall be required to

ensure that interior noise levels attributable to aircraft noise do not exceed CNEL 45 dB; and

4. An aviation easement, in the form presented in Appendix G, shall be granted to the City and County of San Francisco, as the proprietor of SFO, by the owner(s) of the real property on which the proposed project is to be constructed, per the process and criteria described herein.

GP-5.2 Application of Safety Compatibility and Airspace Protection Policies to Infill Development

Notwithstanding the other provisions of Policy GP-5, any new development or redevelopment shall comply with the safety compatibility policies and the airspace protection policies of this ~~CLUPALUCP~~.

GP-6 FINDINGS AS TO SIMILAR USES

Cases may arise where a proposed development project involves a land use that is not explicitly provided for by the land use criteria in Chapter 4 of this ~~CLUPALUCP~~. In such cases, conventional rules of reason shall be applied in determining whether the subject land use is substantially similar to any land use which is specified in the criteria in Chapter 4. In making these determinations, the reviewing officials shall consult the latest edition of the *Airport Land Use Planning Handbook*, prepared under the direction of the California Department of Transportation, and land use classification systems available through the American Planning Association and other authoritative sources.

GP-7 PROPERTIES DIVIDED BY A COMPATIBILITY ZONE BOUNDARY

For the purpose of evaluating consistency with the compatibility criteria set forth in this ~~CLUPALUCP~~, any parcel that is split by compatibility zone boundaries shall be considered as if it were multiple parcels divided at the compatibility zone boundary line. Only the portion of the parcel that lies within the compatibility zone boundary shall be subject to the airport/land use compatibility consistency evaluation.

GP-8 LAND USE COMPATIBILITY PLANNING COORDINATION

An important purpose and function of the ~~CLUPALUCP~~ is to coordinate airport land use compatibility planning across jurisdictions. To further that purpose, the following policies shall apply:

GP-8.1 Notification and Review of Proposed Planning Projects

Any proposed land use policy action that affects property within the project referral area, Area B of the AIA, must be referred to the Airport Land Use Commission (the C/CAG Board) for a determination of consistency with the relevant policies of this ~~CLUPALUCP~~. Local jurisdictions shall notify the Airport Land Use Commission of every such proposed land use policy action as required by State law. The Airport Land Use Commission shall notify the SFO Airport Director, or the Airport Director's designee,

as soon as possible after it receives a request for a consistency review of a proposed land use policy action. The intent is to afford the appropriate Airport staff an opportunity to review and comment on the proposed land use policy action.

GP-8.2 Notification to Airport of Proposed Land Use Policy Actions

C/CAG shall encourage local governments to inform the Airport of proposed land use planning projects within Area B of the AIA in a manner and at a time that enables Airport staff to review and provide timely comments on the proposed land use policy actions.

GP-8.3 Airport Vicinity Development Coordination Committee

C/CAG shall encourage local government planners and Airport planners to participate in a committee convened by C/CAG that would meet periodically to discuss potential development and planning proposals on the Airport and in the local communities. The Committee would have no specific powers or authority but would serve as a forum for communication and coordination at the staff level.

GP-8.4 Advisory Review of Development Proposals

Under state law, local governments may submit development proposals to the Airport Land Use Commission for non-binding advisory review. C/CAG shall encourage local governments to submit the following types of development proposals within Area B of the AIA to the Airport Land Use Commission for advisory review: commercial or mixed use development of more than 100,000 square feet of gross building area; residential or mixed use development that includes more than 50 dwelling units; public or private schools; hospitals or other inpatient medical care facilities; libraries; and places of public assembly.

3.3 ~~CLUP~~ALUCP Implementation and Administration

This Section explains the implementation and administration of the ~~CLUP~~ALUCP and the two-step airport land use commission review process in San Mateo County.

GP-9 LOCAL AGENCY ACTIONS REQUIRED AFTER ADOPTION OF ~~CLUP~~ALUCP REVISIONS OR AMENDMENTS

Upon adoption of an amendment to the ~~CLUP~~ALUCP by the Airport Land Use Commission (C/CAG Board), the Airport Land Use Commission~~C/CAG Board~~ shall notify all affected local agencies of the adoption action.

State law (Govt. Code, Section 65302.3) gives affected local agencies 180 calendar days to amend their general plans, specific plans, and zoning ordinances, as necessary, to be consistent with the amended ~~CLUP~~ALUCP. In the case of special districts, school districts, and community college districts, this consistency requirement shall apply to their facilities master plans.

If an affected local agency does not concur with the provisions of the amended ~~CLUPALUCP~~, it must make specific findings that its general plan, specific plans, and zoning ordinance or, in the case of special districts, school districts and community college districts, its facilities master plans, are consistent with the intent of the airport land use commission statutes, as amended, in compliance with the local agency override process established in state law (see Section 3.3.3, below).

3.3.1 AIRPORT LAND USE COMMISSION REVIEW OF LOCAL AGENCY ACTIONS

State law directs local land use agencies and airport operators to submit certain proposed actions to the airport land use commission for determinations of consistency of the proposed action with the ~~CLUPALUCP~~.

GP-10 PROPOSED LOCAL AGENCY ACTIONS REQUIRING REVIEW BY THE AIRPORT LAND USE COMMISSION (C/CAG BOARD)

The kinds of local agency actions subject to review by airport land use commissions differ depending on whether the local agency has made its general plan, specific plans, and zoning ordinance, or facilities master plan consistent with the ~~CLUPALUCP~~ or has made a decision overriding the ~~CLUPALUCP~~.

Proposed local agency actions that are subject to review by airport land use commissions include: (1) proposed development actions; (2) local land use policy actions.²

GP-10.1 Scope of Airport Land Use Commission (C/CAG Board) Review Before Local Agency Makes Local Plans Consistent with ~~CLUPALUCP~~ or Overrides ~~CLUPALUCP~~

Before an affected agency makes its general plan, specific plans, and zoning ordinance, or facilities master plan either consistent with the ~~CLUPALUCP~~ or overrides the ~~CLUPALUCP~~ as provided by law, the local agency shall refer any *proposed development and land use policy action* that affects property within the project referral area, Area B of the AIA, to the Airport Land Use Commission (the C/CAG Board) for a determination of consistency with the ~~CLUPALUCP~~ prior to issuing a permit for the proposed development (Pub. Util. Code, Section 21676.5(a)).

GP-10.2 Scope of -Airport Land Use Commission (C/CAG Board) Review After Local Agency Makes Local Plans Consistent with ~~CLUPALUCP~~ or Overrides ~~CLUPALUCP~~

After local agencies have either made their local plans and zoning ordinances or facilities master plans consistent with the ~~CLUPALUCP~~ or overridden the ~~CLUPALUCP~~ as provided by law, Public Utilities Code, Section 21676 (b) requires local agencies to submit proposed land use policy actions to the airport land use commission for a determination of the consistency of the proposed action with the ~~CLUPALUCP~~ prior to local agency approval of such action. This requirement shall apply to any proposed land use policy action that affects property within the project referral area, Area B of the AIA.

GP-10.3 Review of Airport and Heliport Plans

Airport Land Use Commission (C/CAG Board) review of two categories of airport plans is required by

² Terms are defined in Section 3.1.

state law – (1) airport and heliport master plans and (2) plans for construction of new airports and heliports.

- **Airport Master Plans.** Public Utilities Code, Section 21676(c) mandates that “each public agency owning an airport within the boundaries of an airport land use commission plan shall, prior to modification of its master plan, refer such proposed change to the airport land use commission.” The Airport Land Use Commission (C/CAG Board) will then determine if the proposed master plan is consistent with the adopted CLUPALUCP.³ This requirement also applies to airport layout plans that would effectively modify any provisions of a previously adopted airport master plan.
- **Construction Plans for a New Airport.** State law also requires that no application for the consideration of plans for a new airport may be submitted to any local, regional, state, or federal agency unless the plans have been: (1) approved by the board of supervisors or the city council of the jurisdiction in which the airport is to be located and (2) submitted to and acted upon by the airport land use commission in the county in which the airport is to be located.

³ As a practical matter, this provision ensures that airport land use commissions are kept informed of changes in airport plans so that appropriate revisions and updates to the CLUPALUCP may be made. Section 21675(a) of the Public Utilities Code requires that CLUPALUCPs “shall be based on a long-range master plan or an airport layout plan...”

GP-11 EXEMPTION OF SPECIAL DISTRICTS FROM AIRPORT LAND USE COMMISSION (C/CAG ~~BOARD~~) REVIEW PROCESS

C/CAG may exempt special districts from the requirement to submit proposed development and land use policy actions for consistency determinations if the scope of project responsibilities of the special district does not involve any potential inconsistencies with the ~~CLUPALUCP~~. The process of granting an exemption to a special district may be initiated either by C/CAG or the special district.

GP-11.1 Application for Exemption

An application for exemption of a special district from the ~~CLUPALUCP~~ consistency review process must include the following information:

1. Name of the special district, and address of the headquarters office.
2. Name and contact information for the executive director of the special district.
3. Name and contact information for the person preparing the application.
4. A map depicting the boundaries of the special district in relation to AIA Area B.
5. A description of the responsibilities and duties of the special district, including a description of all facilities built, operated, maintained, or planned by the special district and a map showing the location of existing and planned facilities with respect to AIA Area B.
6. An explanation of why the facilities built, operated, maintained, or planned by the special district and located within AIA Area B do not and would not conflict with any land use compatibility policies of the ~~CLUPALUCP~~. The explanation must address all noise compatibility, safety compatibility, and airspace protection policies of the ~~CLUPALUCP~~.

GP-11.2 ALUC Review of Exemption Application

After receipt of a complete application for exemption, the C/CAG staff shall distribute copies of the application to all members of the ALUC and place the consideration of the application on the agenda of the ALUC.

The ALUC shall review and discuss the application, granting a representative of the special district and members of the public an opportunity to offer comments and testimony. The ALUC shall make a recommendation to the Airport Land Use Commission (C/CAG Board) for approval or disapproval of the application for exemption.

GP-11.3 Airport Land Use Commission (C/CAG Board) Action on Exemption Application

The C/CAG staff shall forward the application and the ALUC's recommendation to the Airport Land Use Commission (C/CAG Board) and schedule consideration of the application for the next available Board meeting. The Airport Land Use Commission ~~C/CAG Board~~ shall review and discuss the application and the ALUC recommendation, granting a representative of the special district and members of the public an opportunity to offer comments and testimony. The Airport Land Use Commission ~~C/CAG Board~~ shall make a decision on the application for exemption. Approval of the application shall be in the form of a resolution.

A resolution of approval shall include findings documenting that the responsibilities and duties of the special district and all facilities operated, maintained, or planned by the special district pose would involve no potential conflicts with any land use compatibility policies of the CLUPALUCP.

GP-11.4 Documentation of Airport Land Use Commission (C/CAG Board) Approval of Exemption

All Airport Land Use Commission (C/CAG Board) resolutions approving the exemption of special districts from the CLUPALUCP consistency review process shall be kept as part of the CLUPALUCP document distributed and posted electronically or in hard copy.

GP-12 AIRPORT LAND USE COMMISSION (C/CAG BOARD) CONSISTENCY DETERMINATION PROCESS

In its review of proposed development, land use policy actions, and airport and heliport plans, described in Policy GP-10, for a determination of consistency or inconsistency with the CLUPALUCP, the Airport Land Use Commission (C/CAG Board) shall follow the process described herein.

GP-12.1 Two-Step Process

The airport/land use compatibility review process includes two steps. A diagram of the process is shown on **Exhibit III-1**. The review process is initiated by a local agency, as specified in the airport land use commission statutes, as amended. The first step is review by the C/CAG-ALUC; the second step is review and final action by the Airport Land Use Commission (C/CAG Board). The process is described below.

Step 1: Review by the C/CAG-Airport Land Use Committee (ALUC)

- a. The affected agency refers the proposed development or land use policy action, including all relevant documentation, to C/CAG ALUC staff. ALUC staff reviews the submitted materials, coordinates the review with the affected local agency staff, and schedules the item for the next available ALUC meeting. ALUC staff also prepares a report for ALUC and public review. The staff report describes the proposed action and includes an analysis of the relevant airport land use compatibility issues related to the proposed action and a recommended ALUC action.
- b. The C/CAG-ALUC reviews the proposed development or land use policy action, considers relevant public input, and takes action by adopting a motion to advise the Airport Land Use Commission (the C/CAG Board) whether the proposed action is consistent or inconsistent with the relevant provisions in the CLUPALUCP. The ALUC review includes a presentation of the staff report by ALUC staff and opportunities for comments from representatives of the affected local agency, other agencies, and the public.
- c. The C/CAG-ALUC recommendation is transmitted to the Airport Land Use Commission (the C/CAG Board) via a report prepared by ALUC staff.

Step 2: Review/Final Action by the Airport Land Use Commission (C/CAG Board)

- a. The proposed development or land use policy action is scheduled for consideration at the next available Airport Land Use Commission (C/CAG Board meeting). ALUC staff prepares a report for review by the Airport Land Use Commission C/CAG Board that describes the proposed action and includes a copy of the ALUC staff report and the ~~C/CAG~~-ALUC recommendation.
- b. The Airport Land Use Commission (C/CAG Board) reviews the ~~C/CAG~~-ALUC recommendation and adopts a motion declaring whether the proposed development or land use policy action is consistent or inconsistent with the relevant provisions in the ~~CLUPALUCP~~. The Airport Land Use Commission's C/CAG Board's review includes opportunities for comments from the affected local agency, other agencies, and the public.
- c. The Airport Land Use Commission (C/CAG Board) formally notifies the affected local agency, in writing, of its final action on the proposal.

GP-12.2 Response Time Requirement

The Airport Land Use Commission (C/CAG Board) must respond to a local agency's request for a consistency determination on a proposed development or land use policy action within 60 days of the receipt of the referral by ALUC staff. However, this review period does not begin until all necessary documentation has been received by ALUC staff. The determination of the completeness of the information is made by ALUC staff.

In San Mateo County, the 60-day review period includes a review by the ~~C/CAG~~-ALUC. Coordination of the two-step review process by ALUC staff is critical to completing the review within the mandated 60-day review period. If the Airport Land Use Commission (C/CAG Board) does not act on the referral within the 60-day limit, the proposed development or land use policy action is deemed consistent with the ~~CLUPALUCP~~ by law.

GP-12.3 Review Fees

There is currently no State funding provided to support the cost of operating the Airport Land Use Commission. Therefore, the Airport Land Use Commission (C/CAG Board) will work cooperatively with the Airport operator and the cities/county to provide equitable funding for the Airport Land Use Commission.

3.3.2 CONSISTENCY DETERMINATIONS

The key element of the Airport Land Use Commission's (C/CAG Board's) review of proposed development and land use policy actions is the ~~determination concept~~ of "consistency" with the relevant provisions in the ~~CLUPALUCP~~. According to the 2011 *Airport Land Use Planning Handbook*, "'consistency' does not require being identical. It means

only that the concepts, standards, physical characteristics, and resulting consequences of a proposed action must not conflict with the intent of the law or the CLUPALUCP to which the comparison is being made.”⁴

Consistency with the CLUPALUCP involves more than elimination of direct conflicts. Local agencies must establish procedures that implement and ensure compliance with compatibility policies. To accomplish this, “local plans and/or policies must:

- Delineate the compatibility criteria to be applied to individual development actions;
- Identify the mechanisms to be used to ensure that applicable compatibility criteria are incorporated into site specific development projects; and
- Indicate the procedures to be followed in review and approval of development actions affecting lands within the airport influence area, recognizing that certain types of land uses are not subject to discretionary approvals (but can be subject to appropriate ministerial development standards).”⁵

The substance of consistency reviews varies with the type of proposed action being reviewed. The following is a summary of the key factors that must be considered in the three broad categories of consistency reviews.

GP-13 DETERMINATION OF CONSISTENCY OF PROPOSED LAND USE POLICY ACTIONS WITH THE CLUPALUCP

GP-13.1 General Plan, Specific Plan, and Zoning Ordinance/Rezoning Review

General plan, specific plan, and zoning ordinance/rezoning reviews are based on the ability of the proposed land use policy action to prevent future development of land uses or land use characteristics that would conflict with the relevant airport/land use compatibility policies, standards, and criteria of this CLUPALUCP. These consistency evaluations must consider the following factors, based on their relationship to the relevant policies and criteria of the CLUPALUCP:

- Residential densities;
- Types of non-residential land uses;
- Open space uses;
- Height limits/architectural features/materials;
- Sound insulation requirements;
- Exposure to aircraft noise/overflight;
- Potential impact on airspace protection.

⁴ State of California, Department of Transportation, Division of Aeronautics, *California Airport Land Use Planning Handbook*, October 2011, p. 5-3.

⁵ State of California, Department of Transportation, Division of Aeronautics, *California Airport Land Use Planning Handbook*, October 2011, p. 5-3.

GP-13.2 School District, Community College District, and Special District Master Plan Review

Facilities master plan reviews must consider whether the master plans propose any land uses that would be incompatible or conditionally compatible in any noise or safety zone. The consistency review must also consider the potential for planned projects to encroach into protected airspace or introduce any potential hazards to aircraft in flight.

GP-13.3 Consistency Reviews of Proposed Airport Master Plans and Expansion Plans

Under state law (Pub. Util. Code, Section 21676(c)), any public agency owning an airport must, prior to the adoption or modification of its airport master plan, refer the proposed action to the Airport Land Use Commission (C/CAG Board). According to the *Handbook*, “the question to be examined [by airport land use commissions] is whether any components of the airport plan would result in greater noise and safety impacts on surrounding land uses than are assumed in the adopted compatibility plan.”⁶ Components of the airport plans that merit consideration in the consistency review include:

- Aviation activity forecasts;
- Changes to runway layout;
- Changes to flight tracks resulting from the proposed action;
- Changes to airspace parameters;
- Plans for non-aviation development on airport property (such as hotels, office buildings, or industrial buildings), which should be evaluated the same as projects proposed elsewhere in the project referral area.

Where the proposed airport plans are based on new policies of the airport operator, the Airport Land Use Commission (the C/CAG Board) should update the ~~CLUP~~**ALUCP** to account for the new airport plans.⁷ (Under state law, Airport Land Use Commissions have no jurisdiction over the operation of airports [Pub. Util. Code, Section 21674(e)].)

3.3.3 LOCAL AGENCY OVERRIDE OF AN AIRPORT LAND USE COMMISSION ACTION

Section 21675.1(d) of the Public Utilities Code provides for local agencies to override decisions or actions of an airport land use commission on land use matters and airport master plans. The local agency override process involves three mandatory steps (Pub. Util. Code, Sections 21676(b) and 21676(c)):

1. Holding a public hearing by the local agency on the proposed override action;
2. Making of specific findings by the governing body of the local agency that the proposed local action is consistent with the purposes of the airport land use commission statutes, as amended;

⁶ State of California, Department of Transportation, Division of Aeronautics, *California Airport Land Use Planning Handbook*, October 2011, p. 6-15.

⁷ State of California, Department of Transportation, Division of Aeronautics, *California Airport Land Use Planning Handbook*, October 2011, p. 6-16.

3. Approval of the override action by a two-thirds vote of the local agency's governing body; the override action must include adoption of the specific findings identified in Step 2, above.

3.3.3.1 Findings

Adoption of findings is the key element of the local agency override of an airport land use commission action. The purpose of adopting findings is to assure that the proposed local agency action complies with state law. Findings are defined as legally relevant conclusions that explain the decision-making body's method of analyzing the relevant facts, regulations, and policies and the agency's rationale for taking the override action. The findings must show that the proposed local agency action is consistent with the purposes stated in Public Utilities Code, Section 21670, et seq.

3.3.3.2 Implications of a Local Agency Override Action

There are two key outcomes of a local agency override of an Airport Land Use Commission (C/CAG Board) land use action:

- The proposed local agency action is determined by the local agency to be consistent with the relevant provisions of this ~~CLUPALUCP~~, just as if the Airport Land Use Commission (C/CAG Board) had found the proposed action to be consistent with this ~~CLUPALUCP~~.
- If a city or county overrides an action by the airport land use commission with respect to a publicly owned airport that is not operated by that city or county, the agency operating the airport "shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the commission's action or recommendation" (see Pub. Util. Code, Section 21678).

A diagram illustrating the local agency override process is provided in **Exhibit III-2**.